

SHB 2042 - H AMD 45

By Representative Appleton

WITHDRAWN 03/11/2015

1 On page 15, after line 35, insert the following:

2 "Sec. 3. RCW 13.40.070 and 2013 c 179 s 3 are each amended to read
3 as follows:

4 (1) Complaints referred to the juvenile court alleging the
5 commission of an offense shall be referred directly to the
6 prosecutor. The prosecutor, upon receipt of a complaint, shall
7 screen the complaint to determine whether:

8 (a) The alleged facts bring the case within the jurisdiction of
9 the court; and

10 (b) On a basis of available evidence there is probable cause to
11 believe that the juvenile did commit the offense.

12 (2) If the identical alleged acts constitute an offense under
13 both the law of this state and an ordinance of any city or county of
14 this state, state law shall govern the prosecutor's screening and
15 charging decision for both filed and diverted cases.

16 (3) If the requirements of subsections (1)(a) and (b) of this
17 section are met, the prosecutor shall either file an information in
18 juvenile court or divert the case, as set forth in subsections (5),
19 (6), and (8) of this section. If the prosecutor finds that the
20 requirements of subsection (1)(a) and (b) of this section are not
21 met, the prosecutor shall maintain a record, for one year, of such
22 decision and the reasons therefor. In lieu of filing an information
23 or diverting an offense a prosecutor may file a motion to modify
24 community supervision where such offense constitutes a violation of
25 community supervision.

26 (4) An information shall be a plain, concise, and definite
27 written statement of the essential facts constituting the offense

1 charged. It shall be signed by the prosecuting attorney and conform
2 to chapter 10.37 RCW.

3 (5) Except as provided in RCW 13.40.213 and subsection (7) of
4 this section, where a case is legally sufficient, the prosecutor
5 shall file an information with the juvenile court if:

6 (a) An alleged offender is accused of a class A felony, a class
7 B felony, an attempt to commit a class B felony, a class C felony
8 listed in RCW 9.94A.411(2) as a crime against persons or listed in
9 RCW 9A.46.060 as a crime of harassment, or a class C felony that is
10 a violation of RCW 9.41.080 or *9.41.040(2)(a)(iii); or

11 (b) An alleged offender is accused of a felony and has a
12 criminal history of any felony, or at least two gross misdemeanors,
13 or at least two misdemeanors; or

14 (c) An alleged offender has previously been committed to the
15 department; or

16 (d) An alleged offender has been referred by a diversion unit
17 for prosecution or desires prosecution instead of diversion; or

18 (e) An alleged offender has three or more diversion agreements
19 on the alleged offender's criminal history; or

20 (f) A special allegation has been filed that the offender or an
21 accomplice was armed with a firearm when the offense was committed.

22 (6) Where a case is legally sufficient the prosecutor shall
23 divert the case if the alleged offense is a misdemeanor or gross
24 misdemeanor or violation and the alleged offense is the offender's
25 first offense or violation. If the alleged offender is charged with
26 a related offense that must or may be filed under subsections (5)
27 and (8) of this section, a case under this subsection may also be
28 filed.

29 (7) Where a case is legally sufficient to charge an alleged
30 offender with:

31 (a) either prostitution or prostitution loitering and the
32 alleged offense is the offender's first prostitution or prostitution
33 loitering offense, the prosecutor shall divert the case; or

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1 (b) voyeurism in the second degree and the alleged offense is
2 the offender's first voyeurism in the second degree offense, the
3 prosecutor shall divert the case.

4 (8) Where a case is legally sufficient and falls into neither
5 subsection (5) nor (6) of this section, it may be filed or diverted.
6 In deciding whether to file or divert an offense under this section
7 the prosecutor shall be guided only by the length, seriousness, and
8 recency of the alleged offender's criminal history and the
9 circumstances surrounding the commission of the alleged offense.

10 (9) Whenever a juvenile is placed in custody or, where not
11 placed in custody, referred to a diversion interview, the parent or
12 legal guardian of the juvenile shall be notified as soon as possible
13 concerning the allegation made against the juvenile and the current
14 status of the juvenile. Where a case involves victims of crimes
15 against persons or victims whose property has not been recovered at
16 the time a juvenile is referred to a diversion unit, the victim
17 shall be notified of the referral and informed how to contact the
18 unit.

19 (10) The responsibilities of the prosecutor under subsections
20 (1) through (9) of this section may be performed by a juvenile court
21 probation counselor for any complaint referred to the court alleging
22 the commission of an offense which would not be a felony if
23 committed by an adult, if the prosecutor has given sufficient
24 written notice to the juvenile court that the prosecutor will not
25 review such complaints.

26 (11) The prosecutor, juvenile court probation counselor, or
27 diversion unit may, in exercising their authority under this section
28 or RCW 13.40.080, refer juveniles to mediation or victim offender
29 reconciliation programs. Such mediation or victim offender
30 reconciliation programs shall be voluntary for victims."

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32 Correct the title.

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EFFECT: Requires a prosecutor to divert the case of a juvenile alleged to have committed voyeurism in the second degree if the defendant was under the age of 18 at the time of the offense.

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